

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.1767 OF 2015
IN
FIRST APPEAL (ST) NO.12960 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Ms. Y. M. Deshmukh i/b. M. M. Sathaye for the Applicant

CORAM : K. K. TATED, J.

DATE : MAY 8, 2015

P.C.:

1. Mentioned. Not on board. At the request of the learned counsel for the Applicant, matter is taken on board for urgent orders.

2. This Application preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 28/08/2014 passed by the 6th Labour Court, Mumbai in Application A(WCA) No.659/C-172/2011 holding that the Respondent-Claimant is entitled to compensation of Rs.10,16,592/- with 12% p.a. Compensation.

3. The Applicant submits that they already deposited the entire awarded amount as per the directions of Tribunal. She submits that they also preferred Application before Tribunal on 07/05/2015 for an order of injunction restraining the Respondent-Claimant from withdrawing the amount. She submits that if entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present appeal.

4. In the present proceedings, in an accident which occurred on 17/09/2011 the Respondent-Claimant sustained 38% disability. On the date of accident he was working as a Driver and earning salary of Rs.8000/- pm. On the basis of these facts, the Respondent-Claimant filed Application for compensation of Rs.10,16,592/-. The Tribunal held that the Respondent-Claimant has lost 100% earning capacity.

5. Considering these fact, I am of the opinion that the Respondent-Claimant is entitled to withdraw some amount without furnishing any security.

6. Hence, the following order:

a. The operation and implementation of the

impugned judgment and award dated 28/08/2014 passed by the 6th Labour Court, Mumbai in Application A(WCA) No.659/C-172/2011 is stayed in favour of the Applicant only.

b. The Respondent-Claimant is entitled to withdraw 25% of the awarded amount without furnishing any security, subject to the outcome of the present appeal.

c. The Respondent-Claimant is entitled to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on merits.

d. The Tribunal is directed to invest the remaining amount in fixed deposit account of any Nationalized Bank, initially for a period of 1 year, which shall be renewed from time to time, till hearing and final disposal of the present appeal.

e. Civil Application stands disposed of accordingly.

JUDGE